

MINING

COAL AND URANIUM MINING: OPERATING PERMITS

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality (DEQ) prior to initiating strip or underground mining operations. Mined lands must be reclaimed and revegetated. See also, WATER QUALITY PERMITTING, p. 192, and AIR QUALITY PERMITS, p. 33.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety and Health Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

Statute: 82-4-201, *et seq.*, MCA (Strip and Underground Mine Reclamation Act), and
50-73-101, *et seq.*, MCA (Montana Coal Mining Code for mine safety)

Rule: ARM 17.24.301-17.24.1309 and 24.30.1302

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety and Health Bureau

2. Application Requirements

A. Permit

An applicant for a coal or uranium mine operating permit must submit a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the resources that may be affected by the proposed operations. The application must include information on the climate, geology, hydrology, neighboring surface and ground waters and vegetation, etc., and two copies of all maps that meet the requirements outlined in statute. An

applicant for a coal mining permit must also submit a certificate issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy for the strip or underground mining and reclamation operations described in the permit application.

Prior to the issuance of a permit, the operator must file a bond payable to the state of Montana with the DEQ in a sum to be determined by the department of not less than \$200 for each acre of the land affected, with a minimum bond of \$10,000. If federal coal is involved, the bond must also be made payable to the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement. Permits may be renewed on each 5-year permit anniversary by applying for a renewal. In order to renew a permit, the operator must be in compliance with the permit requirements.

B. Reclamation Plan

The reclamation plan for a coal or uranium mine must describe in detail how the applicant will comply with provisions regarding grading, backfilling, highwall reduction, subsidence stabilization, water control, topsoiling, reclamation and coal conservation and measures that will be taken to eliminate damage to public and private lands from soil erosion, subsidence, landslides, water pollution and hazards. In addition, the plan must list the steps that will be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards. Provisions also must be made for the protection and/or reclamation of alluvial valley floors and prime farmlands.

Statute: 82-4-221, 82-4-222, 82-4-227 and 82-4-231, MCA

Rule: ARM 17.24.302-17.24.327

3. **Permitting Procedures**

- 1) An application is required for a permit or a major revision or amendment of a permit or reclamation plan. Upon a determination by the DEQ that the application is administratively complete, the applicant must publish a notice in an area newspaper and the DEQ must notify various local governments, planning agencies, sewage and water treatment authorities and water companies in the area of the proposed mine. Any person having an interest that is or may be adversely affected or an officer of a federal, state or local government agency may file written objections to the application within 30 days of the last publication of the applicant's public notice or receipt of the DEQ's notice. If written objections are filed and an objector requests an

informal conference, the DEQ must hold the conference in the area of the proposed mining and publish a public notice of the informal conference. The DEQ may proceed with the application review while the written objections and conference findings are assessed.

- 2) The DEQ must notify the applicant in writing within 120 days after receipt of the complete application whether the plan is acceptable. If the plan is not acceptable, the DEQ must indicate its reasons. The applicant may then revise the application. The DEQ then has another 120 days to make its decision concerning the acceptability of the application.
- 3) An acceptable application triggers public notice by the DEQ of the acceptability of the proposal. Again, any person having an interest that is or may be adversely affected by the department's decision may file written objections and/or request an informal conference. The informal conference must be held within 20 days of the request. The DEQ must issue its decision within 10 days of the conference.
- 4) An applicant, permittee or person with an interest that is or may be adversely affected by the approval or denial of an application for a permit, a revision or amendment of a permit or reclamation plan or a permit transfer or renewal may request a hearing before the Board of Environmental Review by submitting a written request within 30 days of the decision. The contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 122).

Statute: 82-4-206, 82-4-225 and 82-4-231, MCA

Rule: ARM 17.24.401-17.24.404

4. **Criteria**

The permit for a coal or uranium mining operation may be denied for a number of reasons, including, but not limited to, an inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic or scientific characteristics or cultural resources, historic or geologic importance, critical biological productivity or ecological fragility, the threat of a public hazard or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 82-4-228, MCA

Rule: ARM 17.24.1131-17.24.1148

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Types of Activities Regulated

A coal or uranium mine operator must obtain a prospecting permit from the Montana Department of Environmental Quality (DEQ) if the land is not already included in a current operating permit (see p. 102) and if the prospecting is conducted to determine the available mineral deposits. A reclamation plan and bond must be submitted. The permit is valid for one year and may be renewed.

A prospecting permit is not required for surface disturbances to determine the quantity of overburden in an area, or for gathering environmental data prior to strip or underground mining and reclamation operations, providing the area to be disturbed is not one designated as unsuitable for coal mining (see 3. Criteria on the following page). However, a person who conducts these activities must file a notice of intent with the DEQ that contains the information required by the department prior to beginning prospecting operations.

Statute: 82-4-226, *et seq.*, MCA (Strip and Underground Mine Reclamation Act)

Rule: ARM 17.24.1001-17.24.1018

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

2. Application Requirements

- 1) The application for a prospecting permit must be made in writing, notarized and submitted in duplicate to the DEQ on forms furnished by the department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of prospecting and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation bond with the DEQ based on the estimated cost of the required reclamation and restoration work. The bond may be no less than \$200 per acre with a minimum bond of \$10,000.
- 2) At least 120 days but not more than 150 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal stating the number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

- 3) An applicant, permittee, or person with an interest that is or may be adversely affected by the approval or denial of an application for a permit may request a hearing before the Board of Environmental Review by submitting a written request within 30 days of the decision. The contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 122).

Statute: 82-4-206 and 82-4-226, MCA

Rule: ARM 17.24.1001, 17.24.1003, 17.24.1016 and 17.24.1102

3. Criteria

The permit for prospecting for coal and uranium may be denied for a number of reasons, including, but not limited to, adverse reclamation possibilities, exceptional topographic or scientific characteristics or cultural resources, historic or geologic importance, critical biological productivity or ecological fragility, the threat of a public hazard or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 82-4-228, MCA

Rule: ARM 17.24.1131-17.24.1148

HARD-ROCK MINING: EXPLORATION

1. Types of Activities Regulated

A state exploration license is required to conduct mineral exploration activities for ores and rock or rock products on or beneath the surface of land that result in a material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade and economic viability of mineralization in those lands (82-4-303(7), MCA). An exploration license is a statewide license, and only one is issued per individual or company. Any additional projects are considered amendments to the license, and each must be individually approved and bonded. A bulk sample of up to 10,000 short tons may be taken for metallurgical testing.

Following exploration, an Operating Permit (see HARD-ROCK MINING: OPERATING PERMITS, p. 108) must be obtained for production mining. Exploration and mining for oil, gas, bentonite, clay, coal, sand, gravel, peat, soil or uranium are regulated under other statutes.

Statute: 82-4-331, *et seq.*, MCA

Rule: ARM 17.24.101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

2. **Application Requirements**

To obtain an exploration license, the applicant must propose a specific project to the Montana Department of Environmental Quality (DEQ). The DEQ has available a sample plan of operations that shows the level of information required. The department also accepts copies of U.S. Forest Service operating plans as long as an adequate map is provided. Once the DEQ receives and reviews an exploration plan, an on-site visit is scheduled among the DEQ, the applicant, and usually, a representative from the appropriate federal agency, to calculate the amount of reclamation bond required for the project. Joint bonds with the DEQ and the federal agency are accepted to avoid duplicate bonding. The applicant must agree to post the bond, reclaim any damaged land and not be in default of any other reclamation law.

Statute: 82-4-331 and 82-4-332, MCA

Rule: ARM 17.24.103-17.24.104

3. **Permitting Procedures**

On approval of the exploration plan by the DEQ and after the bond is submitted, the applicant will receive a hard-rock exploration license. The operator cannot legally begin explorations, however, until federal approval, if applicable, is also granted. The license is renewable annually by filing an annual report and payment of the renewal fee.

Rule: ARM 17.24.103

4. **Fees**

The application fee for an exploration license is \$100 and the yearly renewal fee is \$25.

Statute: 82-4-332, MCA

HARD-ROCK MINING: OPERATING PERMITS

1. Types of Activities Regulated

Permit categories and activities regulated		
Large scale operations— an operating permit is required for:	Small mine operations— a Small Miner's Exclusion Statement (SMES) may be filed to exclude an operation from the requirement to obtain an operating permit if:*	Recreational Miners—are not regulated by the state provided the miner:
<ul style="list-style-type: none"> ■ land disturbance in anticipation of mining activities ■ mining ore, some industrial minerals and rock products, ■ ore processing, ■ ore reprocessing, ■ mill construction. <hr/> <p>In addition:</p> <ul style="list-style-type: none"> ■ Annual reports and fees are required. ■ A reclamation bond and a reclamation plan must be submitted and the DEQ conducts annual inspections for compliance with the reclamation plan. ■ Community impact plans are required (see 6. Additional information). <p>See also AIR QUALITY PERMITS, p. 33; WATER APPROPRIATIONS, p. 184; and WATER QUALITY PERMITTING, p. 192.</p>	<ul style="list-style-type: none"> ■ the operation leaves no more than 5 acres disturbed and unreclaimed at any one time or has 2 operations that leave no more than 5 acres disturbed and unreclaimed at one time and that are at least one mile apart. <p>There is no limit on total disturbed and reclaimed acreage over time,</p> <ul style="list-style-type: none"> ■ the small miner does not hold an operating permit that exceeds 100 acres. <p>* An operating permit is required for that portion of an SMES operation that uses cyanide or other metal leaching agents.</p> <hr/> <p>In addition:</p> <ul style="list-style-type: none"> ■ the DEQ has the authority to require a maximum \$10,000 reclamation bond on placer and dredge mines and to recover costs over the \$10,000 limit by filing for the additional amount in District Court, ■ an operator must post a performance bond and obtain approval for the design, construction, operation and reclamation of any hard rock tailings impoundment. 	<ul style="list-style-type: none"> ■ does not use motorized excavation equipment, ■ does not use blasting agents, ■ does not disturb more than 100 ft² or 50 yd³ of material at any site, ■ does not leave unreclaimed sites that are less than 1 mile apart, ■ does not use mercury, ■ does not use cyanide or other metal leaching solvents. <p>A person using a suction dredge must obtain a discharge permit from the DEQ, Water Protection Bureau (see MPDES Permits, p. 193). A statewide permit is available for suction dredges with an intake of 4" or less, for \$25 for Montana residents and \$100 for nonresidents. The annual renewal fees are the same. A person using a suction dredge must also obtain a 310 permit from the county Conservation District (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11).</p>

Statute: 82-4-301, *et seq.*, MCA

Rule: ARM 17.24.101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Environmental Management Bureau

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety and Health Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

Statute: 50-72-101, *et seq.*, MCA

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety and Health Bureau

2. **Application Requirements**

A. Operating Permit

An applicant for an operating permit must submit an application for each mine complex, with the exception of mines for rock products at multiple sites, which under certain conditions, may be authorized under one permit. The application consists of several parts, including a description of the present condition of the area, i.e., hydrology, soils, vegetation, cultural resources, wildlife, etc; an operating plan describing the type and size of the operation, equipment, etc; reclamation plans, stating the reclamation objectives and how they will be implemented; monitoring plans; contingency plans; and closure plans, including water treatment if necessary. Once the application is completed, the agency will evaluate the plans and will either approve or deny the permit or will approve the permit with conditional mitigations or stipulations. If approved, a bond is then calculated based on the applicant's reclamation plan. Once the bond is submitted, the permit is granted.

For mines starting operations after November 3, 1998, open pit mining for gold or silver using heap leaching or vat leaching with cyanide ore-processing reagents is prohibited.

Statute: 82-4-335 through 82-4-338, MCA

Rule: ARM 17.24.116

B. Small Mine Operations

The small miner must sign a Small Miner's Exclusion Statement (SMES), available at the DEQ, which consists of a signed and notarized affidavit stating that the applicant will stay within the requirements or conditions of the exclusion. The applicant must submit a one page plan of operation and a map locating the mine site. Placer mines are bonded for reclamation up to \$10,000. An annual report and renewal are required to maintain SMES status.

3. Permitting Procedures

Operating Permit

- 1) Once a plan is submitted, the DEQ has 60 days for an initial review and 30 days for any subsequent review of the application to determine if it is complete, i.e., if there is enough information to begin an environmental review and make an informed permit decision.
- 2) If incomplete, the applicant is mailed a deficiency or completeness review letter on or before the review deadline. The letter alerts the applicant to additional resource or plan information required by the department. If it is a joint state/federal action (if permits are required by both the DEQ and the U.S. Forest Service or Bureau of Land Management), a joint deficiency letter is sent that includes comments from both the state and federal agencies. During the application process, the DEQ inspects the proposed site. If the site is not accessible because of extended adverse weather conditions, the DEQ may extend the review period by not more than 180 days to allow for inspection of the site.
- 3) There are no constraints on the amount of time an applicant has to prepare a response. Once a response is submitted, the DEQ again has 30 days to review the information. This process continues until the application is completed.
- 4) Once the application is deemed complete, the DEQ has up to 365 days to conduct an environmental review (see MONTANA ENVIRONMENTAL POLICY ACT, p. 123). This time frame may be extended only through negotiations satisfactory to the DEQ and the applicant.

- 5) A permit may be appealed within 90 days of issuance.
- 6) The operating permit must provide that the reclamation plan may be modified by the DEQ after timely notice and an opportunity for hearing (82-4-337(3), MCA).
- 7) The DEQ may also require the operator to submit an amended reclamation plan and post a temporary bond to guarantee the amended plan if it determines, based on unanticipated circumstances that are discovered following the issuance of a permit, that there is a substantial and imminent danger to public health, public safety or the environment (82-4-338(7), MCA).

Statute: 82-4-337, 82-4-338 and 82-4-349, MCA

4. Fees

The application fee for a hard-rock mining permit is \$500. The fee for filing the annual report is \$100.

Statute: 82-4-335, MCA

Rule: ARM 17.24.116 and 17.24.118

5. Criteria

An operating permit may be denied if the plan of development—mining or reclamation—conflicts with the Montana Clean Air Act (75-2-101, *et seq.*, MCA, p. 33), the Montana Water Quality Act (75-5-101, *et seq.*, MCA, p. 192), the Public Water Supply Act (75-6-101, *et seq.*, MCA, p. 178), or if the reclamation plan is insufficient to accomplish the proposed reclamation.

Additional criteria apply if the applicant has outstanding enforcement or reclamation responsibilities.

Statute: 82-4-351, MCA

6. **Additional Information**

Large Scale Developments

- 1) When a proposed mining project will employ more than 75 people in a consecutive 6-month period in the construction or operation of a mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hard-Rock Mining Impact Board. The plan must include development timetables, work-force and population in-migration projections and the increased local government service and facility needs, costs and revenues expected to result from the development. The developer must commit to pay to the affected local governments the increased costs identified in the approved plan and, if requested, must provide financial or other assistance to help local governments prepare for and evaluate the impact plan.
- 2) After the plan is submitted for review, the affected governing bodies have 90 days to submit objections to the Impact Board. If objections cannot be resolved by the developer and local governments, the Impact Board will hold a contested case hearing. Impact plan review is conducted concurrently with the Montana Department of Environmental Quality (DEQ) mine operating permit review.
- 3) Within 30 days after receipt of the approved plan, the developer must provide to the Board and the DEQ a written guarantee that it will make all payments according to the plan schedule. If the plan requires prepayment of taxes, the developer must also provide a third-party financial guarantee acceptable to the Board. Compliance with the terms of an approved impact plan is a statutory condition of the DEQ's operating permit.
- 4) Under certain circumstances, as specified by statute or by the plan itself, the developer or an affected county may petition the Board for an amendment to the impact plan. Jointly, they may petition for an amendment at any time.

Statute: 82-4-335, 82-4-339, 15-37-111 and 90-6-301, *et seq.*, MCA

Rule: ARM 8.104.201, *et seq.*

Contact: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF COMMERCE
Community Development Division
Hard-Rock Mining Impact Board

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals may take place.

Statute: 82-2-301, *et seq.*, MCA (Landowner Notification Act)

Contact: SURFACE OWNER

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches, flumes and other mine-related purposes. Application is made to the District Court.

Statute: 82-2-201, *et seq.*, MCA

Contact: DISTRICT COURT

2. Permitting Procedures

- 1) If the mine owner cannot obtain the agreement of adjacent landowners for right-of-way, the mine owner may file a complaint in District Court requesting that a right-of-way be created.
- 2) After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court. The court appearance must be 10 or more days from the date of service of the summons.
- 3) If the judge determines that the right-of-way is warranted, the judge must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.
- 4) Use of right-of-way can only begin upon payment of the assessed damages.

Statute: 82-2-203 through 82-2-208, MCA

3. **Additional Information**

Any party may appeal the commissioners' assessment of damages to the District Court within 10 days after the report is filed.

Statute: 82-2-209 through 82-2-212, MCA

OPENCUT MINING

1. **Types of Activities Regulated**

The Opencut Mining Act and the related regulations apply to the mining of bentonite, clay, scoria, peat, soil, sand or gravel. An operator may not remove over 10,000 cubic yards of material and overburden until the Montana Department of Environmental Quality (DEQ) has issued a permit for the reclamation of affected lands. Exemptions may be available for operators currently holding a reclamation permit if the new operations will result in the removal of 5,000 cubic yards or less of material and overburden and the total area of excavation does not exceed five acres. There are specific requirements for this exemption, however, and a completed form provided by the DEQ must be submitted.

The Employment Relations Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Safety and Health Bureau works with the mine operator and mining contractors who must report the name of the mine, the location of the mine, the name of the company and contractors operating the mine, the type of mining activity, the date mining activity will begin and other information to ensure worker safety.

All opencut sand and gravel operations must comply with applicable zoning regulations.

An air quality permit (see AIR QUALITY PERMITS, p. 33) from the DEQ is required for the operation of any mineral crushing or other processing plant.

Statute: 82-4-401, *et seq.*, MCA (Opencut Mining Act)
50-72-101, *et seq.*, MCA (mine safety)

Rule: ARM 17.24.201, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Industrial and Energy Minerals Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Relations Division
Safety and Health Bureau

2. **Application Requirements**

An operator must submit an application for a reclamation permit on a form furnished by the DEQ. A bond calculated by the DEQ as the cost to the department of reclaiming the affected land, a zoning compliance form, plans of the intended operations and other details of the mine operation are also required. Government agencies are exempt from the bond requirement.

Statute: 82-4-432 through 82-4-434, MCA

Rule: ARM 17.24.203-17.24.223

3. **Permitting Procedures**

- 1) The application form and accompanying materials (permits, bond, map(s) and reclamation plan, etc.) are reviewed for acceptability to ensure that each item is addressed correctly. An on-site evaluation is conducted to determine if the land has the capacity to be mined and reclaimed and to make sure site conditions are as specified in the application. The site inspection may be conducted with the applicant and other interested persons.
- 2) The DEQ has 30 days to notify the applicant whether the application is acceptable. If the application is not acceptable, the department must list the deficiencies.
- 3) The DEQ has 30 days to review deficiency responses and notify the applicant whether or not the application is acceptable. The DEQ may, for sufficient cause, extend either or both of the above review periods an additional 30 days if it provides prior notification to the applicant.
- 4) An applicant, permittee or person with an interest that is or may be adversely affected by the approval or denial of an application for a permit may request a hearing before the Board of Environmental Review by submitting a written request stating the reasons for the appeal within 30 days of the decision. The contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 122).

Statute: 82-4-427 and 82-4-432, MCA

Rule: ARM 17.24.212

4. **Criteria**

The DEQ will issue a permit only if the bond, reclamation plan and other requirements of Title 82, chapter 4, part 4 are fulfilled. The reclamation plan must ensure that the applicant will establish a productive post-mining land use, will appropriately protect ground and surface water and will properly bury waste, etc.

Statute: 82-4-432 through 82-4-434, MCA

Rule: ARM 17.24.212-17.24.223

OPERATIONS ON STATE LANDS: COAL MINING

1. **Types of Activities Regulated**

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary lease term is 10 years and may be extended if coal continues to be produced in commercial quantities and the terms of the lease have been met. Rent and royalties are required. Corporations not incorporated in Montana must obtain a certificate of authority from the Montana Secretary of State. See also WATER QUALITY PERMITTING, p. 192.

Statute: 77-3-301, *et seq.*, MCA

Rule: ARM 36.25.301, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. **Application Requirements**

Applications are made on a form furnished by the Montana Department of Natural Resources and Conservation (DNRC). The application must include an adequate and sufficient description of the proposed tracts. All leases must comply with the requirements of the Strip and Underground Mine Reclamation Act, (82-4-201, *et seq.*, MCA, pp. 102-106). Mining operations must be as systematic as possible to prevent the waste of coal and to facilitate subsequent operations.

Statute: 77-3-306, MCA

Rule: ARM 36.25.304

3. **Permitting Procedures**

- 1) When a sufficient number of applications for leases have been received, or at the director's discretion, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.
- 2) A lease may not be issued until the coal resources and the surface of the tract have been evaluated by the Montana Board of Land Commissioners to determine the lease's value.
- 3) Sales of state coal leases are through competitive bidding. The DNRC determines the amount of the bid deposit, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: ARM 36.25.304

4. **Fees**

A fee of \$50 is required for a lease application. Rent on a state coal lease cannot be less than \$2 per acre. The lessee must pay a cash royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 36.2.1003, 36.25.309 and 36.25.310

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. **Types of Activities Regulated**

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) and gems (sapphires, rubies and other precious or semiprecious stones). Royalties must be at least five percent of the full market value of the metalliferous minerals

recovered under the lease. The primary lease term is 10 years and may be extended if minerals continue to be produced in commercial quantities and the terms of the lease have been met.

Statute: 77-3-101, *et seq.*, MCA

Rule: ARM 36.25.601

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

Applications are made on a form furnished by the Montana Department of Natural Resources and Conservation (DNRC). The application must include an adequate and sufficient description of the proposed tracts.

Statute: 77-3-111, MCA

Rule: ARM 36.25.604

3. Permitting Procedures

- 1) Leases may be issued on a first-come, first-served basis or by competitive bid.
- 2) When the DNRC receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in trade journals and/or the official county newspaper of the county where the tract is located.
- 3) If bids are accepted, the tract will be leased to the highest bidder unless the Montana Board of Land Commissioners determines that the bid is not in the state's best interest.
- 4) A lease may not be issued until the mineral resources and the surface of the tract have been evaluated by the Board to determine the lease's value. The DNRC may require the applicant to pay up to \$500 for the evaluation.
- 5) The lease will contain provisions for prospecting and mining, royalty, etc. The Board also may require payment of a bond.

Statute: 77-3-111 through 77-3-112 and 77-3-119 through 77-3-121, MCA

Rule: ARM 36.25.602, *et seq.*

4. Fees

A fee of \$50 is required for a lease application. Rent on a state metalliferous and gem lease is \$1 per acre for the first three years, \$2.50 per acre for the fourth and fifth years, then \$3.00 per acre until the lease terminates. The lessee must pay a cash royalty on all minerals produced from the leased premises at a rate of not less than five percent of the mineral's value.

Rule: ARM 36.2.1003, 36.25.606 and 36.25.607

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Permits may be issued by the Montana Department of Natural Resources and Conservation (DNRC) to non lease holders for prospecting for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) and gems (sapphires, rubies and other precious or semiprecious stones) on state lands. See also OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 117.

Statute: 77-3-101, *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Fees

The applicant for a prospecting permit on state lands is required to pay an issuance fee and an annual fee during the life of the permit. The prospecting permit fee is set by the DNRC and approved by the Board of Land Commissioners. Contact the DNRC for fee information.

Statute: 77-1-302, MCA

Rule: ARM 36.2.1003

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (i.e., stone, limestone, oil shale, clay, bentonite, calcite, talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, barite or any other nonmetallic mineral, excluding coal, oil or gas) on state lands are issued on a royalty basis for up to a 10-year period. The lessee may have a preferential right of renewal of a producing lease under the readjustment of terms and conditions determined by the Montana Board of Land Commissioners to be in the best interest of the state. Monthly reports are required. The Board may issue permits on its terms and conditions to the Montana Department of Transportation, the Board of County Commissioners or other local government entities for the removal and use of stone, gravel or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also required. See AIR QUALITY PERMITS, p. 33 and OPENCUT MINING, p. 114.

Statute: 77-3-201, *et seq.*, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Minerals Management Bureau

2. Application Requirements

Applications must be made on forms supplied by the Montana Department of Natural Resources and Conservation.

3. Permitting Procedures

See OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 117.

4. Fees

An application fee of \$40 is required for a nonmetalliferous lease.

Statute: 77-3-202, MCA

Rule: ARM 36.2.1003

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

A person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits and who wishes to locate a mining claim must follow these procedures:

- 1) Post a written notice at the point of discovery;
- 2) Within 30 days, mark the boundaries of the site;
- 3) Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Montana Department of Natural Resources and Conservation. The claimant must also, within 90 days, record the claim with the U.S. Department of the Interior, Bureau of Land Management (BLM), Montana State Office in Billings; and
- 4) File an affidavit of performance of annual work with the appropriate county. Claim maintenance fees must be paid or the applicant must comply with the BLM small miner maintenance fee waiver provisions by September 1st of each year. Small miners taking advantage of the fee waiver provisions must still file annual assessment filings on or before December 30th of each year.

Statute: 82-2-101, *et seq.*, MCA

Contact: COUNTY CLERK AND RECORDER

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Montana State Office